

TEXT AT BEGINNING OF DRAFT RULE

The following draft rule is a STAFF DRAFT that may be revised without public notice prior to signature. We provide this document solely for the convenience of interested parties and to seek informal input. It is not yet officially proposed, and, of course, is not the official rule for purposes of compliance.

Draft OSDBU DBE Regulation

EPA is proposing to revise its Minority Business Enterprise (MBE) and Women's Business Enterprise (WBE) Program and rename it as EPA's Disadvantaged Business Enterprise (DBE) Program. EPA is proposing to delete existing MBE and WBE specific provisions in 40 CFR Parts 30, 31, 35 and 40, and is proposing to consolidate and add to these provisions in a new Part 33. Part 33 is intended to harmonize EPA's statutory DBE procurement goal requirements with the United States Supreme Court's decision in Adarand Constructors, Inc. v. Peña, 115 S. Ct. 2097 (1995). In Adarand, the Supreme Court extended strict judicial scrutiny to federal affirmative action programs that use racial or ethnic criteria as a basis for decision making. In accordance with President Clinton's directive to mend, not end, affirmative action programs, this proposed rule reflects EPA's efforts to ensure that the compelling government interest of remedying past and current racial discrimination through the use of agency-wide DBE procurement goals at EPA is served by a narrowly-tailored program. If you are a recipient of an EPA financial assistance agreement or an entity receiving an identified loan under a financial assistance agreement capitalizing a revolving loan fund, this proposed rule may affect you.

This proposed rule references the docket which will be established and available when the rule is actually proposed, if not sooner.

EPA would appreciate receiving comments and suggestions on this draft rule no later than August 31, 2000. Please send any comments or suggestions to the Docket Clerk, Enforcement and Compliance Docket and Information Center (2201A), U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington, D.C. 20004 (in triplicate, if possible). Please use a font size no smaller than 12. Comments may also be sent electronically to docket.oeca@epa.gov or faxed (202)501-1011. Please attach electronic comments as an ASCII (text) file, and avoid the use of special characters and any form of encryption. Be sure to include the docket number, EC-2000-003, on your document. In person, deliver comments to Enforcement and Compliance Docket and Information Center, U.S. Environmental

Protection Agency, Ariel Rios Building, room 4033, 1200 Pennsylvania Avenue, NW, Washington, D.C. 20004.

Mr. Gordon and Mr. Sutton will continue to be the contacts for the rule when it is proposed.